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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/729,606

12/05/2003

Allen C. Thompson

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AGILENT TECHNOLOGIES INC.

INTELLECTUAL PROPERTY ADMINISTRATION, LEGAL DEPT.

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LOVELAND, CO 80537

EXAMINER

RAMILLANO, LORE JANET

ART UNIT

PAPER NUMBER

1743

MAIL DATE

DELIVERY MODE

07/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/729,606	Applicant(s) THOMPSON ET AL.	
	Examiner Lore Ramillano	Art Unit 1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-16 and 34-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-16 and 34-37 is/are rejected.
- 7) ☒ Claim(s) 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/26/07 has been entered.

Status of Claims

2. In applicant's reply filed on 4/7/07, applicant amended claims 9, 14, and 16; cancelled claims 1-8 and 17-33. Claims 9-16 and 34-37 are pending and under examination in the application.

Response to Amendment

3. In light of applicant's amendments, new rejections follow.

Claim Objections

4. Claim 34 is objected to because of the following informalities: claim 34 recites that it depends on claim 1. Appropriate correction is required. For examination purposes, examiner will interpret claim 34 to depend on currently amended claim 9.

Claim Rejections - 35 USC § 112

5. The rejection of claims 1-17, 19, and 31-37 under 35 U.S.C. 112, second paragraph, is withdrawn. In light of applicant's amendment, a new rejection follows.

6. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 16 recites the limitation "said hardstop." There is insufficient antecedent basis for this limitation in the claim. Did applicant intend to have this claim depend on claim 15?

Prior art rejections

7. The rejections over the prior art are withdrawn. In light of applicant's amendments, new rejections follow.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. **Claims 9-14 and 16** are rejected under 35 U.S.C. 102(e) as being anticipated by Weinberger et al. ("Weinberger," US Pub. No. 2004/0248318).

Weinberger discloses an assay device comprising: a base; a cover; a clamping member; and a flexure and a spring element. Weinberger further discloses that at least one flexure is a separate component from the base and cover; at least one separate flexure is a clamping member flexure; the cover is a flexure; the base is a flexure; and is capable of performing the functional language recited in claims 14 and 16. (i.e. [0108]-[0116]).

10. **Claims 9-16** are rejected under 35 U.S.C. 102(e) as being anticipated by Eichele et al. ("Eichele," US 6623701).

Eichele discloses an assay device comprising: a base; a cover; a clamping member; and a flexure and a spring element. Eichele further discloses that at least one flexure is a separate

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component from the base and cover; at least one separate flexure is a clamping member flexure; the cover is a flexure; the base is a flexure; at least one spacer and a hardstop; and is capable of performing the functional language recited in claims 14 and 16. (i.e. column 3, line 7 to column 8, line 9).

Claim Rejections - 35 USC § 103

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12. **Claims 9-11 and 14-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowen (US 5053197) in view of Eichele.

Bowen discloses an assay device comprising: a base; a cover; and a flexure. Bowen further discloses that at least one flexure is a separate component from the base and cover; a spacer and a hardstop (i.e. column 4, lines 16-40; column 6, line 63 to column 8, line 64).

Bowen does not specifically disclose a clamping member.

Eichele discloses a specimen chamber (10) for the liquid treatment of at least one specimen (90) comprises a base plate (20) and a carrier plate (30), between which a gap-formed accommodation space is formed for the specimen, whereby the base plate and carrier plate (20, 30) are held together with a clamping device (60, column 8, lines 1-8) in a frame arrangement (50), and in order to form the accommodation chamber are separated from one another by spacer elements (40), and the base plate (20) features, at an intake (11) on the side pointing towards the carrier plate (30), a tapering shape in order to form a wedge-shaped liquid reservoir (21).

It would have been obvious to a person of ordinary skill in the art to modify Bowen by including a clamping member to hold the cover and base together, as disclosed in Eichele, because

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it would be beneficial to have an additional mechanism for securing the top and bottom members of Bowen's invention.

Allowable Subject Matter

13. Claims 34-37 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record (Eichele) fails to teach or fairly suggest having a bridge comprising at least two extending arm portions that terminate in feet portions and a bore; and a rotatable screw disposed within the bridge, in combination with the remaining features and elements of the claimed invention.

Response to Arguments

14. Applicant's arguments, see p. 1-2, filed 4/7/07, with respect to the rejections by Freeman and Shea have been fully considered and are persuasive. These rejections are withdrawn.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lore Ramillano whose telephone number is (571) 272-7420. The examiner can normally be reached on Mon. to Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at

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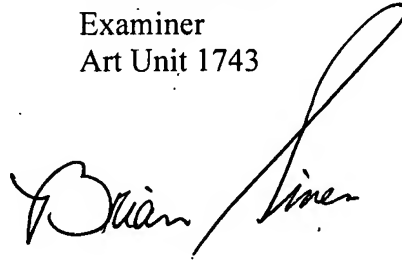
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866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service

Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lore Ramillano
Examiner
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A handwritten signature in black ink, appearing to read "Lore Ramillano", written in a cursive style.